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USA,
Plaintiff,
v.
ROBINSON,
Defendant.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. 09-cr-00478-SI-1

FIRST ORDER ON RESTITUTION

Re: Dkt. No. 72

Presently before the Court is *pro se* defendant Matthew Robinson's motion for termination of restitution, based on his changed circumstances. Dkt. No. 72. The Court finds that the record is currently insufficient to make a ruling on the request, and accordingly will order that the materials described below be provided to the Court. If these materials are produced and are satisfactory, the Court will reduce the amount of the monthly payments defendant must make from \$100 per month to \$50 per month. However, defendant will remain jointly and severally liable for his \$39,314 payment obligation.

BACKGROUND

Between June 15, 2006 and June 13, 2008, defendant Matthew Robinson robbed or attempted to rob six banks, four of them with his co-conspirator Vincent Mertes. He obtained \$39,314 during those robberies. *See* Dkt. No. 27 (plea agreement). Defendant pleaded guilty to six counts of robbing or attempting to rob a bank, in violation of 18 U.S.C. § 2113(a). Defendant also agreed, pursuant to a negotiated plea agreement, to pay restitution to the financial institution victims of his crimes. Defendant was sentenced to 60 months in custody. While incarcerated, defendant participated in the BOP's Inmate Financial Responsibility Program ("IFRP"). The

1 Court ordered payment of the special assessment and restitution as follows:

2 Payment in monthly installments of \$100.00, to commence 60 days after release
3 from imprisonment to a term of supervision

4 While incarcerated, payments of not less than \$25 per quarter, shall be paid towards
5 the special assessment through the BOP Inmate Financial Responsibility Program
6 and another payment of not less than \$25 per quarter, shall be paid towards
7 restitution through the Inmate Financial Responsibility Program

8 In total, the Court ordered defendant to pay \$39,914 joint and several restitution to his victims.

9 According to the government, defendant has paid \$2,200 in restitution since February 5, 2014. He
10 has also paid his entire \$600 special assessment. Dkt. No. 75 at 2. The Court commends
11 defendant on his timely payments.

12 **LEGAL STANDARD**

13 18 U.S.C.A. § 3664(f)(3)(A) provides that “[a] restitution order may direct the defendant to
14 make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a
15 combination of payments at specified intervals and in-kind payments.” 18 U.S.C.A. § 3664(h)
16 further directs that “[i]f the court finds that more than 1 defendant has contributed to the loss of a
17 victim, the court may make each defendant liable for payment of the full amount of restitution or
18 may apportion liability among the defendants to reflect the level of contribution to the victim’s
loss and economic circumstances of each defendant.” Finally, 18 U.S.C.A. § 3664(k) states:

19 A restitution order shall provide that the defendant shall notify the court and the
20 Attorney General of any material change in the defendant’s economic
21 circumstances that might affect the defendant’s ability to pay restitution. The court
22 may also accept notification of a material change in the defendant’s economic
23 circumstances from the United States or from the victim. **The Attorney General**
24 **shall certify to the court that the victim or victims owed restitution by the**
25 **defendant have been notified of the change in circumstances.** Upon receipt of
26 the notification, the court may, on its own motion, or the motion of any party,
27 including the victim, adjust the payment schedule, or require immediate payment in
28 full, as the interests of justice require.

25 **DISCUSSION**

26 The Court finds that defendant has articulated a change in circumstance. He states that he
27 now has a 14-month-old child to provide for, as well as two additional stepchildren. He states that

1 he currently makes \$13.30 per hour. Dkt. No. 72. The Court finds that these factors, if supported
2 factually, do constitute a material change in defendant's economic circumstances, and would
3 warrant a \$50 reduction in his monthly payment amounts. This case is dissimilar to a situation
4 where a condition, known to the Court at the time of sentencing, remained in effect at the time a
5 defendant moved the Court to amend or reduce restitution. *See, e.g., United States v. Soroka*, 508
6 F. Supp. 2d 869, 871 (D. Or. 2007) (citing *United States v. Vega*, No. CR04-0413MJP, 2007 WL
7 1655229, at *1 (W.D. Wash. June 6, 2007)).

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9

CONCLUSION

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United States District Court
Northern District of California

IT IS SO ORDERED.

Dated: May 17, 2016



SUSAN ILLSTON
United States District Judge